

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

KEVIN JAMES KOHUTE §
VS. § CIVIL ACTION NO. 1:24-CV-67
U.S. SECRET SERVICE OFFICE §

MEMORANDUM OPINION REGARDING TRANSFER

Plaintiff Kevin James Kohute, proceeding *pro se*, brings this civil rights action pursuant to 42 U.S.C. § 1983 against the U.S. Secret Service Office located in Tyler, Texas.

The above-styled action was referred to the undersigned United States Magistrate Judge pursuant to 28 U.S.C. 636 and the Local Rules for the Assignment of Duties to the United States Magistrate Judge.

Discussion

Plaintiff brings this lawsuit against the U.S. Secret Service Office located in Tyler, Texas alleging that he always wanted to fill out a job application, but he claims it is hard to find an application and the forms necessary for a background check.

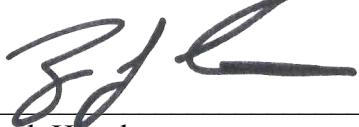
The Civil Rights Act, 42 U.S.C. §1981, *et seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue in civil rights cases is controlled by 28 U.S.C. § 1331. When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1331(b) provides that venue is proper only in the judicial district where the defendants reside or in which the claims arose.

The claims which form the basis of plaintiff's complaint occurred at the U.S. Secret Service Office located in Tyler, Texas. In addition, the defendant in this action is located in Tyler, Texas.

The city of Tyler, Texas is located in Smith County, Texas. Pursuant to 28 U.S.C. § 124, Smith County is located in the Tyler Division of the United States District Court for the Eastern District of Texas. As a result, venue is proper in the Eastern District of Texas.

While Smith County is within the jurisdictional boundaries of the Eastern District of Texas, it is located in the Tyler Division of the district, rather than the Beaumont Division. When a case is filed in the wrong district or division, the court “shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” 28 U.S.C. § 1406(a). Accordingly, this case should be transferred to the Tyler Division of this court. An appropriate order so providing will be entered by the undersigned.

SIGNED this 24th day of April, 2024.



Zack Hawthorn
United States Magistrate Judge